



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of



**DECISION**

Case #: CWA - 206369

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on September 20, 2022, under Wis. Admin. Code § HA 3.03, to review a decision by the Shawano County Department of Human Services regarding Medical Assistance (MA), a hearing was held on December 28, 2022, by telephone.

The issue for determination is whether the agency correctly determined petitioner's cost-share relating to community waivers.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: K. Gueths

Shawano County Department of Human Services  
W7327 Anderson Avenue  
Shawano, WI 54166-3105

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Shawano County.
2. On 8/9/22 the agency sent petitioner a notice explaining that he was open for services under community waiver Medicaid. The notice explained that petitioner had a cost-share of \$447.38.

3. Petitioner filed a request for hearing on 9/23/22.

### DISCUSSION

The petitioner explained that the petitioner requested a fair hearing on the basis that the current cost-share presents a hardship. Petitioner did not identify any error by the agency in the calculation of the cost share, Petitioner did not allege any rule, administrative code, or statute provision that the agency did not comply with in arriving at the current cost-share. The petitioner's representative testified that "I'm sure they did it fine."

I have reviewed the budget submitted by the agency. The budget shows the gross income of \$1,655.98 as well as the application of the basic needs allowance to arrive at a personal maintenance allowance of \$1,038.50 which was deducted from the income along with the health insurance premium. This resulted in the \$447.38 cost-share. As stated, petitioner does not dispute the correctness of these calculations and they appear correct to me.

It is clear that the correctness of the calculation of a cost-share is an appealable issue to DHA. *See* Wis. Admin. Code Section 10.55(1)(b). But petitioner appears to concede that this was correctly determined. Petitioner seems to suggest that petitioner sought a hardship waiver/reduction under *Medicaid Handbook* Section 26.6.6. However, no evidence of such an application or denial is in the record aside from a mention and it is not clear that such an application was properly filed or that there was a denial. It is also not clear that this appeal was from such a purported denial, as the appeal request was filed only 40 days after the cost-share notice. That said, even if such a request was denied, the language of that section suggests that such reductions are at the discretion of the department. I am not convinced that DHA has jurisdiction to review such a denial if there was, in fact, a denial. Based on this record I will not disturb the agency determination.

### CONCLUSIONS OF LAW

The cost-share was correctly calculated by the department.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

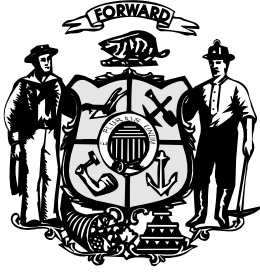
Given under my hand at the City of Madison,  
Wisconsin, this 13th day of January, 2023



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John P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 13, 2023.

Shawano County Department of Human Services  
Bureau of Long-Term Support